

Message Text

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P 102358Z DEC 76

FM SECSTATE WASHDC

TO AMEMBASSY MADRID PRIORITY

INFO AMCONSUL BARCELONA PRIORITY

AMCONSUL SEVILLE

AMCONSUL BILBAO

UNCLAS STATE 301190

PASSPORT

E.O. 11652: N/A

TAGS: CPAS (DUAL NATIONALITY)

SUBJECT: VOTING IN FOREIGN ELECTIONS

REF: MADRID TELEPHONE CALL 12/9/76

1. AMEMBASSY MADRID TELEPHONED DEPARTMENT CONCERNING REFERENDUM TO BE HELD IN SPAIN ON 12/15/76. VOTING IN REFERENDUM NOT OBLIGATORY. EMBASSY HAS RECEIVED INQUIRIES FROM DUAL US/SPANISH CITIZENS CONCERNING EFFECT VOTING MAY HAVE ON US CITIZENSHIP.

2. SECTIONS 401(E) NA AND 349(A)(5) INA HELD UNCONSTITUTIONAL IN AFROYIM V. RUSK. VOTING IN FOREIGN ELECTION IS THEREFORE NOT AN EXPATRIATING ACT, AND WILL NOT IN ITSELF JEOPARDIZE US CITIZENSHIP.

3. VOTING BY DUAL NATIONAL, WHO ACQUIRED DUAL NATIONALITY AT BIRTH, MAY RESULT IN LOSS OF US CITIZENSHIP UNDER SECTION 350 INA IF ALL CONDITIONS OF THIS SECTION ARE MET. THOSE WHO ARE DUAL NATIONALS FROM BIRTH SHOULD BE INFORMED

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OF PROVISIONS OF SECTION 350 AND THAT THEY MAY LOSE US

NATIONALITY BY VOTING VOLUNTARILY AND WITH THE INTENT TO RELINQUISH US NATIONALITY. ABSENT PERSUASIVE EVIDENCE OF SUCH INTENT, A FINDING OF LOSS UNDER SECTION 350 WOULD NOT

BE MADE. DUAL US/SPANISH CITIZENS, WHO AUTOMATICALLY ACQUIRED SPANISH CITIZENSHIP THROUGH MARRIAGE OR OTHERWISE AFTER BIRTH, SHOULD BE ADVISED THAT THEY MAY VOTE WITHOUT JEOPARDIZING US CITIZENSHIP, SINCE THEY DID NOT ACQUIRE DUAL NATIONALITY AT BIRTH.

4. UNDER DEPARTMENT'S A-1423 OF 3/10/76, PAGE 5, VOTING IN FOREIGN ELECTION IS ALSO NOT A FACTOR TO BE CONSIDERED IN EVALUATING INTENT TO RELINQUISH US CITIZENSHIP WHERE AN EXPATRIATIVE ACT HAS BEEN PERFORMED. ROBINSON

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